

Senate Bill No. 25

Passed the Senate August 30, 2014

Secretary of the Senate

Passed the Assembly August 30, 2014

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 1164.3 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 25, Steinberg. Agricultural labor relations: dispute resolution.

Existing law provides that within 60 days of a decision by the Agricultural Labor Relations Board taking effect, a party may file an action to enforce the order, using specified procedures. Existing law provides that during the pendency of any appeal of the board's order, the order may not be stayed unless the appellant demonstrates that he or she is likely to prevail on the merits and that he or she will be irreparably harmed by implementation of the board's order.

This bill would provide that an action to enforce the order of the board may be filed within 60 days whether or not the other party is seeking judicial review of the order. The bill would also increase the evidentiary threshold for the court to grant a stay of the board's order and require the court to make written findings supporting any order granting a stay of the order during the pendency of the appeal.

The people of the State of California do enact as follows:

SECTION 1. Section 1164.3 of the Labor Code is amended to read:

1164.3. (a) Either party, within seven days of the filing of the report by the mediator, may petition the board for review of the report. The petitioning party shall, in the petition, specify the particular provisions of the mediator's report for which it is seeking review by the board and shall specify the specific grounds authorizing review by the board. The board, within 10 days of receipt of a petition, may accept for review those portions of the petition for which a prima facie case has been established that (1) a provision of the collective bargaining agreement set forth in the mediator's report is unrelated to wages, hours, or other conditions of employment within the meaning of Section 1155.2, (2) a

provision of the collective bargaining agreement set forth in the mediator's report is based on clearly erroneous findings of material fact, or (3) a provision of the collective bargaining agreement set forth in the mediator's report is arbitrary or capricious in light of the mediator's findings of fact.

(b) If it finds grounds exist to grant review within the meaning of subdivision (a), the board shall order the provisions of the report that are not the subject of the petition for review into effect as a final order of the board. If the board does not accept a petition for review or no petition for review is filed, then the mediator's report shall become a final order of the board.

(c) The board shall issue a decision concerning the petition and if it determines that a provision of the collective bargaining agreement contained in the mediator's report violates the provisions of subdivision (a), it shall, within 21 days, issue an order requiring the mediator to modify the terms of the collective bargaining agreement. The mediator shall meet with the parties for additional mediation for a period not to exceed 30 days. At the expiration of this mediation period, the mediator shall prepare a second report resolving any outstanding issues. The second report shall be filed with the board.

(d) Either party, within seven days of the filing of the mediator's second report, may petition the board for a review of the mediator's second report pursuant to the procedures specified in subdivision (a). If no petition is filed, the mediator's report shall take immediate effect as a final order of the board. If a petition is filed, the board shall issue an order confirming the mediator's report and order it into immediate effect, unless it finds that the report is subject to review for any of the grounds specified in subdivision (a), in which case the board shall determine the issues and shall issue a final order of the board.

(e) Either party, within seven days of the filing of the report by the mediator, may petition the board to set aside the report if a prima facie case is established that any of the following have occurred: (1) the mediator's report was procured by corruption, fraud, or other undue means, (2) there was corruption in the mediator, or (3) the rights of the petitioning party were substantially prejudiced by the misconduct of the mediator. For the sole purpose of interpreting the terms of paragraphs (1), (2), and (3), case law that interprets similar terms used in Section 1286.2 of the Code of

Civil Procedure shall apply. If the board finds that any of these grounds exist, the board shall within 10 days vacate the report of the mediator and shall order the selection and appointment of a new mediator, and an additional mediation period of 30 days, pursuant to Section 1164.

(f) Within 60 days after the order of the board takes effect, even if a party seeks appellate review of the order of the board, either party or the board may file an action to enforce the order of the board, in the superior court for the County of Sacramento or in the county where either party's principal place of business is located. During the pendency of a petition for a writ of review by a party, the parties shall be required to implement the terms of the board's order immediately upon issuance of the order. No final order of the board shall be stayed during any review sought under this section, unless the court finds and states in its initial findings that (1) the appellant has demonstrated, by clear and convincing evidence, that he or she will be irreparably harmed by the implementation of the board's order, and (2) the appellant has demonstrated, by clear and convincing evidence, a likelihood of success on appeal. For purposes of this section, the court deciding the stay shall provide written findings and analysis supporting the decision to grant a stay.

Approved _____, 2014

Governor